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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALEX ANDRONICO BAIREZ-CHAVEZ,  
aka Edardo Gascan,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 06-74814

Agency No. A42-486-083

MEMORANDUM \*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted May 20, 2008 \*\*

Before: PREGERSON, TASHIMA, and GOULD, Circuit Judges.

Alex Andronico Baires-Chavez, a native and citizen of El Salvador, petitions  
for review of the Board of Immigration Appeals' ("BIA") order dismissing his

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously finds this case suitable for decision without  
oral argument. *See* Fed. R. App. P. 34(a)(2).

appeal from an immigration judge's ("IJ") decision denying his application for relief under former § 212(c) of the Immigration and Nationality Act. Our jurisdiction is governed by 8 U.S.C. § 1252. We review de novo claims of due process violations. *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000). We dismiss in part and deny in part the petition for review.

We lack jurisdiction to review the discretionary decision to deny Baires-Chavez § 212(c) relief. *See* 8 U.S.C. § 1252(a)(2)(B)(ii); *Vargas-Hernandez v. Gonzales*, 497 F.3d 919, 923 (9th Cir. 2007) ("Discretionary decisions, including whether or not to grant § 212(c) relief, are not reviewable."). Baires-Chavez's contentions that the agency improperly weighed the factors in his case, and that the BIA improperly considered his criminal offense, do not state colorable due process claims. *See* 8 U.S.C. §§ 1252(a)(2)(B), (D); *Vargas-Hernandez*, 497 F.3d at 923.

We reject Baires-Chavez's contention that the BIA violated due process by acting ultra vires. *See* 8 C.F.R. § 1003.1(d)(3)(ii) (BIA may review de novo questions of discretion); *Lata v. INS*, 204 F.3d 1241, 1246 (9th Cir. 2000) (requiring error for a due process violation).

To the extent Baires-Chavez contends that the IJ was biased, we agree with the BIA that he was not prevented from reasonably presenting his case. *See*

*Colmenar*, 210 F.3d at 971.

**PETITION FOR REVIEW DISMISSED in part; DENIED in part.**